



## **PLANNING COMMISSION AGENDA**

**Wednesday, May 14, 2008**

**6:30 p.m. Regular Meeting**

### **Council Chambers**

First Floor, City Hall Wing

200 East Santa Clara Street  
San José, California

**Ash Kalra, Chair**

**Randi Kinman, Vice-Chair**

**Xavier Campos**

**Matt Kamkar**

**Jim Zito**

**Lisa Jensen**

**Christopher Platten**

**Joseph Horwedel, Director**

**Planning, Building and Code Enforcement**

## **NOTE**

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

## **NOTICE TO THE PUBLIC**

Good evening, my name is **Ash Kalra** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, May 14, 2008**. Please remember to turn off your cell phones and pagers. Parking ticket validation machine for the garage under City Hall are located at the rear of the Chambers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4.a., not PD06-023.**

The procedure for this hearing is as follows:

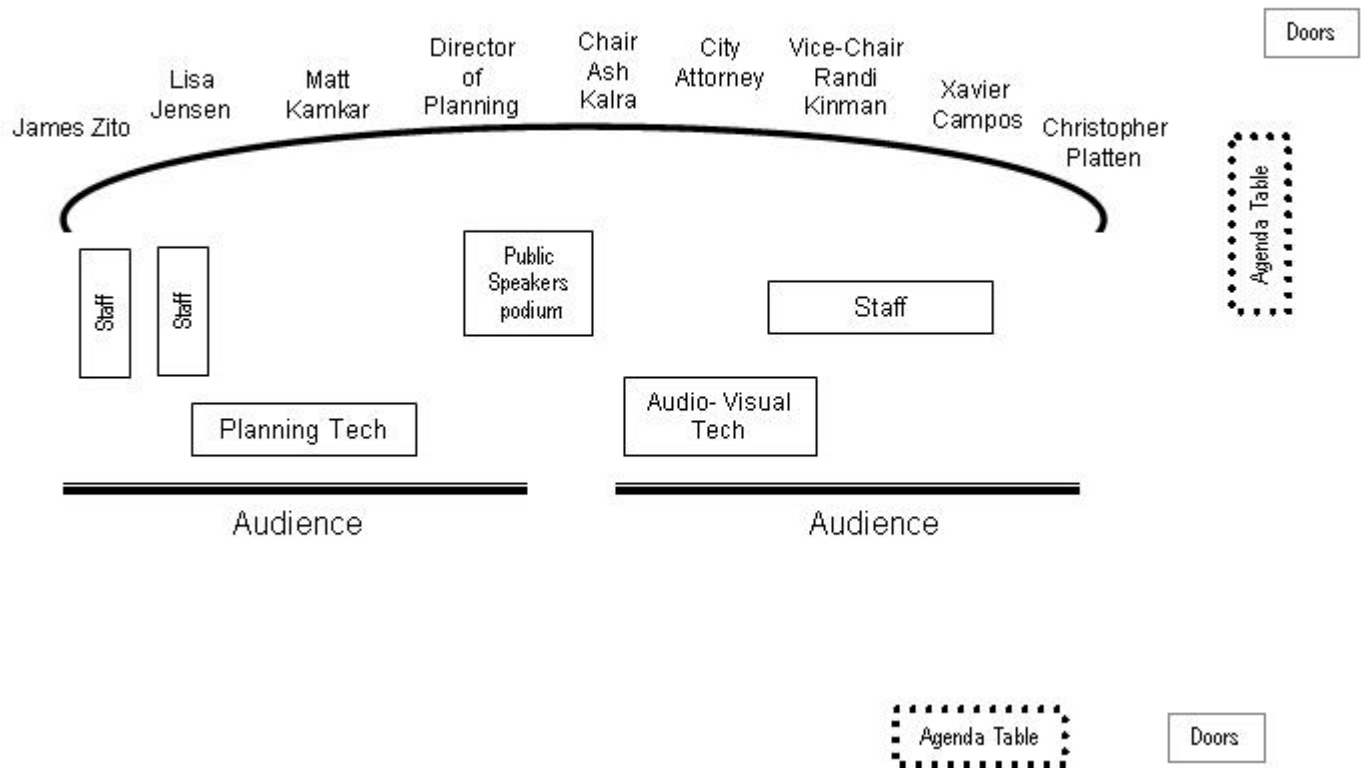
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.**

**The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items.** Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezoning and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

***Note:** If you have any agenda questions, please contact Carmen Stanley at (408) 535-7856 or email [carmen.stanley@sanjoseca.gov](mailto:carmen.stanley@sanjoseca.gov)*

The Planning Commission is a seven-member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at [www.sanjoseca.gov/planning/hearings/planning\\_com.asp](http://www.sanjoseca.gov/planning/hearings/planning_com.asp).

Audio for the Planning Commission hearings are recorded and broadcasted live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website:  
[http://sanjose.granicus.com/ViewPublisher.php?view\\_id=17#planningCommission](http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission).

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

# **AGENDA**

## **ORDER OF BUSINESS**

### **1. ROLL CALL**

### **2. DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.

### **3. CONSENT CALENDAR**

#### **NOTICE TO THE PUBLIC**

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **CP07-105**. Conditional Use Permit to allow a tow yard facility on an existing parking lot, with a new 60' x 12' trailer proposed for business operations, and to associated hold lien sales on a 1.09 gross acre site in the LI Light Industrial Zoning District, located on the easterly terminus of North 4th Street and Archer Avenue (1610 N 4TH ST)(Clarita Fazzari, Owner; Matos Auto Towing and Transport (Bob Coen, Developer). Council District 3. SNI: None. CEQA: Incomplete. *PROJECT MANAGER, C.BURTON*

#### **Staff Recommendation:**

Recommend denial of a Conditional use Permit to allow a tow yard facility on an existing parking lot, with a new 60' x 12' trailer proposed for business operations, and to hold associated lien sales on a 1.09 gross acre site in the LI Light Industrial Zoning District as recommended by staff.

- b. [CP08-009](#). Conditional Use Permit Renewal to allow renewal of an existing eating, drinking, and entertainment establishment and late night use until 2:00 a.m. daily on a 0.32 acre site in the DC Downtown Primary Commercial Zoning District, located on the northeast corner of S. 2nd and E. San Salvador Streets (394 S 2ND ST)(Julia LeTrustee, Owner). Council District 3. SNI: University. CEQA: Exempt. *PROJECT MANAGER, E.SAMONSKY*

**Staff Recommendation:**

Recommend approval of a Conditional Use Permit Renewal to allow renewal of an existing eating, drinking, and entertainment establishment and late night use until 2:00 a.m. daily on a 0.32 acre site in the DC Downtown Primary Commercial Zoning District as recommended by staff.

- c. [CP08-016](#). Conditional Use Permit Renewal to allow a drinking, entertainment establishment and late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District, located on northeast corner of South Almaden Avenue and Post Street (44 S ALMADEN AV)(Gallagher Aloha Et Al, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, M.MERSICH*

**Staff Recommendation:**

Recommend approval of a Conditional Use Permit Renewal to allow renewal of a drinking and entertainment establishment and late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District as recommended by staff.

- d. [CP08-021](#). Conditional Use Permit Renewal for an existing public eating, drinking and entertainment establishment and banquet facility on a 0.08 gross acre site in the DC Downtown Primary Commercial Zoning District, located on the northwest corner of South 1st Street and West San Salvador Street (399 S 1st St.)(Rostam Llc Kasra Araghi, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, L.McMORROW*

**Staff Recommendation:**

Recommend approval of a Conditional Use Permit Renewal for renewal of an existing public eating, drinking and entertainment establishment and banquet facility on a 0.08 gross acre site in the DC Downtown Primary Commercial Zoning District as recommended by staff.

- e. [CP08-025](#). Conditional Use Permit to allow a tire recycling facility at an existing industrial building, no exterior changes and no outdoor storage on the site. All activities will be indoors. The site is located in the IP Industrial Park Zoning District, at 1919 Monterey Road, Unit #2, APN: 455-04-036 (Wilson And Theresa Hui, Owner). Council District 7. SNI: None. CEQA: Exempt. *PROJECT MANAGER, C.BURTON*

**Staff Recommendation:**

Recommend approval of a Conditional use Permit to allow a tire recycling facility at an existing industrial building with no exterior changes and no outdoor storage on the site as recommended by staff.

The following items are considered individually.

#### 4. **PUBLIC HEARINGS**

##### **NOTICE TO THE PUBLIC**

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. Review and Recommendation of the [Strong Neighborhoods Initiative Washington Neighborhood Improvement Plan Amendment](#) to the City Council. Council Districts 3 and 7. SNI: Washington. CEQA: Strong Neighborhoods Initiative Program EIR, Resolution No 71045. *PROJECT MANAGER, J.YOSHIDA*

##### **Staff Recommendation:**

Consider the Environmental Impact Report in accordance with CEQA. Recommend that the City Council (1) Accept the Strong Neighborhoods Initiative (SNI) Washington Neighborhood Improvement Plan Amendment as the renewed community vision for the future of the Washington SNI Planning Area; and (2) Encourage Washington area residents, property owners and community members to continue to dedicate their time, energy and resources towards the Plan and this Amendment while continuing with their community-building activities.

- b. [ORDINANCE AMENDMENT](#). An ordinance of the City of San José amending title 20 of the San José Municipal Code, the zoning code, to add section 20.30.530 to provide a height exception for solar photovoltaic power generation systems mounted on the surface of an accessory building or structure, and to amend sections 20.20.100, 20.30.100, 20.30.500, 20.40.010, 20.50.010, 20.70.100, 20.100.500, 20.100.610, and 20.100.1030, and amend section 13.48.510 of chapter 13.48, of the San José Municipal Code, Historic Preservation, all to clarify that a building permit may be issued for installation of solar photovoltaic power generation systems that conform to all of the development standards of the zoning district in which they are located. CEQA: Exempt, PP08-053. Deferred from 05/07/08. *PROJECT MANAGER, S.DO*

##### **Staff Recommendation:**

Recommend Approval of an Ordinance amending Title 20 of the San José Municipal Code to provide a height exception for solar photovoltaic systems on accessory buildings or structures and to clarify when a building permit may be used.

- c. **ORDINANCE AMENDMENT**. An Ordinance of the City of San José Amending Chapter 20.70, Section 20.70.010, of Title 20 of the San José Municipal Code to expand the area to which the downtown zoning regulations apply to include the area bounded by Fourth Street, St. John Street, Seventh Street, and San Fernando Street, and to make other related technical or clarifying changes. CEQA: Final San José Downtown Strategy 2000 Environmental Impact report (EIR), Resolution No. 72767. Deferred from 4/21/08. *PROJECT MANAGER, E.SAMONSKY*

**Staff Recommendation:**

Consider the Environmental Impact Report. Recommend approval of an Ordinance amending Chapter 20.70, Section 20.70.010, of Title 20 of the San José Municipal Code to expand the area to which the downtown zoning regulations apply as recommended by staff.

- d. **CP07-101**. Conditional use Permit to construct a four-story 69-unit residential care and service facility (senior assisted living) with a below grade parking garage on a 0.5 gross acre site in the CP Pedestrian Commercial Zoning District, located on the southwest corner of Bascom Avenue and Surrey Place (2517 S. Bascom Ave)(Lena Basso Trustee & et al, Owner; Sunrise Senior Living, Developer). Council District 9. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 04/21/08, 05/07/08. *PROJECT MANAGER, M.DAVIS*

**Staff Recommendation:**

Recommend approval of a Conditional Use Permit to construct a four-story 69-unit residential care and service facility (senior assisted living) with a below grade parking garage on a 0.5 gross acre site in the CP Pedestrian Commercial Zoning District as recommended by staff.

- e. **PDC07-033**. Planned Development Rezoning from R-1-5(PD) Planned Development Zoning District and A - Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 379 single-family attached residences and 30,000 square feet for commercial uses, the demolition of two single-family residences and nine accessory structures, and the preservation/relocation of one single-family residence and one fruit stand on a 20.18 gross acres site, located on the southeast corner of Berryessa Road and Jackson Avenue (Pepper Lane Berryessa LLC & Myra Reinhard, Owners; Pulte Home Corporation, Developer). Council District 4. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 03/26/08. *PROJECT MANAGER, R.MATHEW*

**Staff Recommendation:**

Consider the Negative Declaration in accordance with CEQA. Recommend approval of a Planned Development Rezoning from R-1-5(PD) Planned Development Zoning District and A – Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 379 single-family attached residences and 30,000 square feet for commercial uses, the demolition of one single-family residence and nine accessory structures, and the preservation/relocation of one single-family residence and one fruit stand on a 20.18 gross acres site as recommended by staff.

- f. **PDC07-072**. Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus. The project includes demolition of about 47,000 square feet of existing buildings and the new construction of 135,884 square feet resulting in 272,578 square feet (total) on an existing private high school on an approximately 30.05 gross acre site located in the area generally bounded by W. Hedding Street, Caltrain right-of-way, Stockton Avenue, Emory Street and Elm Street (960 W. Hedding Street)(Bellarmine College Preparatory, Owner). Council District 6. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 05/07/08. *PROJECT MANAGER, E.SCHREINER*

**Staff Recommendation:**

Consider the Mitigated Negative Declaration in accordance with CEQA.  
Recommend approval of a Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus, on an approximately 30.05 gross acre site as recommended by staff.

**5. PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
- 1) Responding to statements made or questions posed by members of the public; or
  - 2) Requesting staff to report back on a matter at a subsequent meeting; or
  - 3) Directing staff to place the item on a future agenda.

**6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

**7. GOOD AND WELFARE**

- a. Report from City Council
- b. Commissioners' report from Committees:
- 1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).
  - 2) Parks Funding Subcommittee (Zito).
  - 3) Envision San José 2040 General Plan Update Process (Kamkar).
- c. Review of synopsis for 05/07/08.
- d. Consider Study Session dates and/or topics.  
Discuss Study Session Date/Coordination with Historic Landmarks Commission for 'Economic Benefits of Preservation of Historic Neighborhoods'

**8. ADJOURNMENT**

## **2008 PLANNING COMMISSION MEETING SCHEDULE**

Date	Time	Type of Meeting	Location
January 16	6:30 p.m.	Regular Meeting	Council Chambers
January 30	6:30 p.m.	Regular Meeting	W118 & W119
February 13	5:00 p.m.	Study Session <i>Review &amp; Comment: Planning Department Website</i>	Room T-332
February 13	6:30 p.m.	Regular Meeting	Council Chambers
February 27	5:00 p.m.	Study Session <i>CEQA: Reviewing Environmental Impact Reports</i>	Room T-332
February 27	6:30 p.m.	Regular Meeting	Council Chambers
March 12	5:00 p.m.	Study Session <i>North San José</i>	Room T-332
March 12	6:30 p.m.	Regular Meeting	Council Chambers
March 26	5:00 p.m.	Study Session <i>Green Vision/Develop City Policy</i>	Room T-332
March 26	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 9	5:00 p.m.	Study Session <i>Riparian Corridor Policy</i>	Room T-332
April 9	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 21 (Monday)	5:00 p.m.	Study Session <i>Inclusionary Housing &amp; Housing Element</i>	Room T-332
April 21 (MONDAY)	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
May 7	5:00 p.m.	Study Session <i>Capital Improvement Program</i>	Room T-1654
May 7	6:30 p.m.	Regular Meeting	Council Chambers
May 14	6:30 p.m.	Regular Meeting	Council Chambers
May 28	6:30 p.m.	Regular Meeting	Council Chambers
June 11	6:30 p.m.	Regular Meeting	Council Chambers
June 25	6:30 p.m.	Regular Meeting	Council Chambers
July 16	6:30 p.m.	Regular Meeting	Council Chambers
August 6	6:30 p.m.	Regular Meeting	Council Chambers
August 20	6:30 p.m.	Regular Meeting	Council Chambers
September 10	6:30 p.m.	Regular Meeting	Council Chambers
September 24	6:30 p.m.	Regular Meeting	Council Chambers
October 8	6:30 p.m.	Regular Meeting	Council Chambers
October 22	6:30 p.m.	Regular Meeting	Council Chambers
November 5	6:30 p.m.	Regular Meeting	Council Chambers
November 19	6:30 p.m.	Regular Meeting	Council Chambers
December 3	6:30 p.m.	Regular Meeting	Council Chambers
December 10	6:30 p.m.	Regular Meeting	Council Chambers

## **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior, which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.